



TOWN OF UNDERHILL

Development Review Board

MICHAEL DIFFENDERFFER

CONDITIONAL USE

Docket #: DRB-19-12

Applicant(s):	Michael Diffenderffer
Consultant:	RSG & JH Stuart Associates
Property Location:	15 Pleasant Valley Road (PV015)
Acreage:	±1.1 Acres (Grand List) / ±0.82 Acres (ArcMap)
Zoning District(s):	Underhill Center Village District
Project Information:	The Applicant is proposing to convert a multi-family dwelling to a mixed-use structure containing: three dwelling units (multi-family dwelling), office space and restaurant space, as well as to construct a covered porch within a riparian buffer.

- The Applicant's project was scheduled for Monday, October 21, 2019. Abutting property owners were notified of the hearing via certified mail.
- The hearing commenced on Monday, October 21, 2019. A Staff Report was prepared with accompanying Exhibits A-M, as setout below:
 - Exhibit A - Diffenderffer Conditional Use Review Staff Report
 - Exhibit B - Diffenderffer (PV015) Conditional Use Review Hearing Procedures
 - Exhibit C - Development Review Application
 - Exhibit D - Project Narrative & Information
 - Exhibit E - Zoning Permit Application # B-19-18
 - Exhibit F - Zoning Permit Application # CL-19-05
 - Exhibit G - Certificate of Service
 - Exhibit H - BFP Notice
 - Exhibit I - § 3.17 Source Protection Areas (ULUDR)
 - Exhibit J - Existing & Proposed Upper Level Floor Plan
 - Exhibit K - Existing & Proposed Lower Level Floor Plan
 - Exhibit L - Existing & Proposed Elevations
 - Exhibit M - Wastewater System Site Plan
- Staff Comments were provided within the Staff Report (see Exhibit A).
- The hearing was continued to Monday, January 6, 2020. After the hearing, on October 22, 2019, Staff, on behalf of the Development Review Board, provided the Applicant a letter advising of additional materials the Board requested (see Exhibit N)
- On Monday, January 6, 2020, the Applicant did not have any new materials to present at the continued hearing, and therefore, the hearing was then again continued, this time to Monday, March 16, 2020.
- On Monday, March 16, 2020, the hearing commenced via Zoom due the COVID-19 outbreak.

During this hearing, the Board and the Applicant discussed associated parking issues, as well as issues surrounding the property lines. The hearing was once again continued, this time to Monday, June 2, 2020.

- When preparing for the Monday, June 2, 2020 hearing, Staff discovered that the hearing was not originally warned in a publication: the *Burlington Free Press*, which is a requirement of the hearing process.
- At the Monday, June 2, 2020 hearing, the Applicant was absent. Staff informed the Board that the initial hearing was not warned properly and that he would warn the hearing for whenever the Board was intending to continue the evening's hearing. The Board selected Monday, August 3, 2020 as the next hearing date, and Staff advised that that hearing would be warned in order to conform with the warning requirements.
- Moreover, at the June 2, 2020 meeting, Staff informed the Board of additional information that the Applicant had submitted to him in an email on May 27 & May 28 (submitted as Exhibit O).
- After the June 2, 2020 hearing, the Applicant submitted additional exhibits (see Exhibits P & Q), provided in the contents section of this Supplemental Staff Report.
- Staff anticipates that the Applicant will submit more exhibits after this supplemental staff report is disseminated, but before the Board's hearing on Monday, August 3, 2020.

Staff recommends that the Board re-enter the exhibits from the previous Staff Report into the record, as well as the provided testimony, which can be obtained via the audio recordings and video recording. In addition, Staff recommends reading into the record the outline above that summarizes the events that transpired.

2018 UNDERHILL UNIFIED LAND USE & DEVELOPMENT REGULATIONS RELEVANT REGULATIONS:

- Article II, Table 2.3 – Underhill Center Village District (pg. 12)
- Article III, Section 3.2 – Access (pg. 30)
- Article III, Section 3.3 – Conversion or Change of Use (pg. 33)
- Article III, Section 3.7 – Lot, Yard & Setback Requirements (pg. 38)
- Article III, Section 3.8 – Nonconforming Lots (pg. 39)
- Article III, Section 3.9 – Nonconforming Structures (pg. 40)
- Article III, Section 3.11 – Outdoor Lighting (pg. 41)
- Article III, Section 3.13 – Parking, Loading & Service Areas (pg. 44)
- Article III, Section 3.14 – Performance Standards (pg. 46)
- Article III, Section 3.16 – Signs (pg. 50)
- Article III, Section 3.17 – Source Protection Areas (pg. 55)
- Article III, Section 3.18 – Steep Slopes (pg. 56)
- Article III, Section 3.19 – Surface Waters & Wetlands (pg. 63)
- Article III, Section 3.23 – Water Supply & Wastewater Systems (pg. 68)
- Article IV, Section 4.12 – Mixed-Use (pg. 87)
- Article IV, Section 4.15 – Multi-Dwelling Structures (Access Dwellings, Two-Family Dwellings and Multi-Family Dwellings (pg. 92)

- Article V, Section 5.1 – Applicability (pg. 112)
- Article V, Section 5.3 – Site Plan Review (pg. 115)
- Article V, Section 5.4 – Conditional Use Review (pg. 120)
- Article V, Section 5.5 – Waivers & Variances (pg. 123)
- Article VI – Flood Hazard Area Review (pg. 127)
- Appendix A – *Underhill Road, Driveway, Trail Ordinance*

ADDITIONAL CONTENTS:

- n. Exhibit N – PV015 Supplemental Staff Report
 - o. Exhibit O – PV015 Conditional Use Hearing Procedures
 - p. Exhibit P - Conditional Use Continuance Request Materials
 - q. Exhibit Q - Email Correspondence from Diffenderffer
 - r. Exhibit R - Wastewater System & Potable Water Supply Design
 - s. Exhibit S - Proposed Site Plan
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PREVIOUS COMMENTS/QUESTIONS

UNIFIED LAND USE & DEVELOPMENT REGULATIONS

1. **TABLE 2.3 – UNDERHILL CENTER VILLAGE DISTRICT:** The proposing parking areas shall be 12 ft. from the property lines unless waived by the Development Review Board.
2. **TABLE 2.3 – UNDERHILL CENTER VILLAGE DISTRICT:** Should the Board pursue more information about the parking arrangement, obtaining the building and lot coverage percentages is recommended.
3. **SECTION 3.2 – ACCESS:** While the Applicant has not submitted an access permit application at this time, the Board can still review the layout of the access way and parking layout, as the application itself only provides informational materials.
4. **SECTION 3.2 – ACCESS:** Staff has informed the Applicant that more information regarding the parking layout is likely to be required.
5. **SECTION 3.2 – ACCESS:** Upon ascertaining what information will be required, Staff can solicit comments from the Road Foreman.
6. **SECTION 3.2 – ACCESS:** The existing lot already contains two existing accesses (curb cuts). The Board has the authority to require the Applicant to close one of the curb cuts (Sections 3.2.D.2 and 3.2.D.4).
7. **SECTION 3.2 – ACCESS:** The Board has the authority to require the Applicant to bring the driveway up to AOT B-71 Standards.
8. **SECTION 3.3 – CONVERSION OR CHANGE OF USE:** Conditional use approval is required since the Applicant is proposing to convert the structure from a multi-family dwelling (a conditional use) to a mixed-use structure (a conditional use) (§ 3.3.A.3).
9. **SECTION 3.11 – OUTDOOR LIGHTING:** If lighting in the parking areas occurs, the Applicant will need to confirm that they will conform with the outdoor lighting requirements.
10. **SECTION 3.13 – PARKING, LOADING & SERVICE AREAS:** All parking spaces are required to be 9 ft. by 18 ft., and shall be located to the side or rear of the building, behind the front building line, unless approved by the Board.

11. **SECTION 3.13 – PARKING, LOADING & SERVICE AREAS:** Parking areas, loading areas, utilities, waste and recycling collection areas, shall be screened from adjoining residential properties.
12. **SECTION 3.13 – PARKING, LOADING & SERVICE AREAS:** The parking area shall consist a minimum 10% landscaping unless waived by the Board.
13. **SECTION 3.13 – PARKING, LOADING & SERVICE AREAS:** The Board may require as a condition of approval standards relating to: a) shared parking, b) landscaping, c) screening, d) lighting, e) snow removal, f) pedestrian, or g) transit facilities.
14. **SECTION 3.13 – PARKING, LOADING & SERVICE AREAS:** The Applicant will need to depict loading and service areas for emergency vehicles, waste and recycling collection, utility boxes, snow storage and other purposes found to be necessary.
15. **SECTION 3.13 – PARKING, LOADING & SERVICE AREAS:** Loading and service areas will need to be clearly marked and located in a manner that will not obstruct vehicular and pedestrian circulation.
16. **SECTION 3.13 – PARKING, LOADING & SERVICE AREAS:** The Board retains the right to waive some the aforementioned requirements (see § 3.13.C).
17. **SECTION 3.16 – SIGNS:** The Board shall inquire with the Applicant if he is an anticipating the utilization of a sign.
18. **SECTION 3.19 – SURFACE WATERS & WETLANDS:** The proposed covered porch will be ~66 ft. from Crane Brook, and therefore, will encroach upon the riparian buffer by 34 ft.
19. **SECTION 3.19 – SURFACE WATERS & WETLANDS:** The first 50 ft. of the riparian buffer are to be maintained as an undisturbed, naturally vegetated riparian buffer (§ 3.19.D.5).
20. **SECTION 5.3.B.6 – LANDSCAPING & SCREENING:** Landscaping shall be provided to shield parking areas from neighboring properties – specifically in the front and side portions of the property where they abut residential properties or public roads.
21. **SECTION 5.4.B.1 – THE CAPACITY OF EXISTING OR PLANNING COMMUNITY SERVICES OR FACILITIES:** Staff can consult the Road Foreman should the Board desire more information relating to access and drainage issues.
22. **SECTION 5.5.B.4 – WAIVER REQUEST ELEMENTS:** The porch could be shortened in order to conform to the riparian buffer requirement.
23. **ARTICLE VI – FLOOD HAZARD AREA REVIEW:** Additional information relating to parking is required to determine if any of the flood hazard area review standards apply.

APPENDIX A – ROAD ORDINANCE

1. **SECTION 4.C – DEVELOPMENT ROAD & DRIVEWAY STANDARDS – GRADES:** More information relating to the grade of the driveway is required to determine if it satisfies the 10% grade requirement.
2. **SECTION 4.C – DEVELOPMENT ROAD & DRIVEWAY STANDARDS – TOPOGRAPHY:** Should the Board require updated information relating to parking, further review will be required.
3. **SECTION 4.C – DEVELOPMENT ROAD & DRIVEWAY STANDARDS – DRAINAGE:** Upon the submission of additional parking materials, Staff can solicit comments from the Road Foreman regarding drainage.

4. **SECTION 4.C – DEVELOPMENT ROAD & DRIVEWAY STANDARDS – SLOPES, BANKS & DITCHES:** Upon the submission of additional parking materials, Staff can solicit comments from the Road Foreman and conduct a more thorough review regarding this subsection.
 5. **SECTION 4.C – DEVELOPMENT ROAD & DRIVEWAY STANDARDS – WET AREAS:** Upon the submission of additional parking materials, Staff can conduct a more thorough review regarding this subsection.
 6. **SECTION 4.C – DEVELOPMENT ROAD & DRIVEWAY STANDARDS – CULVERTS:** Upon the submission of additional parking materials, Staff can solicit comments from the Road Foreman regarding culverts.
 7. **SECTION 4.C – DEVELOPMENT ROAD & DRIVEWAY STANDARDS – DESIGN:** A paved apron shall be provided.
 8. **SECTION 5.A – DRIVEWAYS – CONSTRUCTION & DESIGN REQUIREMENTS:** The Board should require the Applicant to upgrade the existing driveway and proposed parking areas to be upgraded to AOT B-71 Standards.
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